

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-26 are pending.

The undersigned appreciatively acknowledges the interview granted by Examiner Zhong on August 4, 2004. At this interview, the language of independent claim 1 was discussed in light of the asserted Bahlmann reference (U.S. Patent No. 6, 487,594, hereinafter Bahlmann). Examiner Zhong indicated that Bahlmann does not appear to teach a system serving multiple ISPs as required by independent claim 1, and therefore the outstanding rejection based on Bahlmann appears to have been overcome. However, Examiner Zhong further indicated that further examination and/or search would be required.

In the outstanding Office Action, the specification was objected to because of an informality; claims 7, 8, 10, 12, 14, 20, 21, 23, and 25 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bahlmann, and claims 1-6, 9, 11, 13, 15, 16-19, 22, 24, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bahlmann, in view of 'Official Notice.' For reasons discussed below, this rejection is respectfully traversed.

In response, the specification has been amended to correct the informality. No new matter has been added.

Independent claim 1 is directed to a method for providing multiple data service providers a high-speed network to expand their customer base. Claim 1 sets out steps for connecting at least two different data service providers to the same high-speed network, which is owned by a third party. Bahlmann, on the other hand, is directed to a policy management method and system for use by a single internet service provider.

Bahlmann depicts a policy management system through which a single Internet service provider (ISP) can offer Internet services to multiple subscribers in different regions.

Bahlmann discusses regional policy databases and a central policy database operable with regional policy databases to allow that single ISP to manage and inter-relate the components of the regional operations as well as the differences between the regional operations.

Bahlmann only refers to providing such an improved method and system for a single ISP.

Bahlmann does not teach a high-speed network that is owned by a third party and can be used by many data service providers to expand their customer base. Independent claim 1 requires a high-speed network operated by a third party, that can be used by a plurality of data service providers allowing each data service provider to obtain new customers outside their original geographic area. For example, in one embodiment of the present invention, the specification teaches of allowing distinct cable service providers to obtain customers outside the geographic limitation of their granted cable license.

Independent claims 10, 12, 14, 16, 23, and 25 each specifically require at least a first and second data service provider, distinguishing them from Bahlmann. Claim 10 is directed to a method for at least a first and second data service provider to expand their customer base by executing a subscription contract with a third party to connect to a high speed network.

Claim 12 is directed to populating a digital repository with entries about end users of at least a first and second Internet service provider. Claim 14 is directed to a method for at least a first and second broadband data service provider to connect to a high-speed data network to promote competition. Claim 16 is directed to a system for at least a first and second broadband data service provider to connect to a high speed network owned by a third party.

Claim 23 is directed to a system for providing operation support services to at least a first and second Internet service provider. Claim 25 is directed to a system for promoting competition

between cable providers that connects at least a first and second broadband data service provider to a high speed network.

Independent claims 7 and 20 are directed to a system and method, respectively, that also support multiple service providers. Claims 7 and 20 require providing an end user with data services, storing end-user information in a database, and associating that end-user information with the service provider. Bahlmann does not teach associating an end-user with one service provider of the plurality of service providers that may be available because all of the end users in Bahlmann are customers of the same service provider.

Thus, it is respectfully submitted that independent claims 1, 7, 10, 12, 14, 16, 20, 23, and 25 patentably define over Bahlmann. Because claims 2-6 depend from claim 1, claims 8 and 9 depend from claim 7, claim 11 depends from claim 10, claim 13 depends from claim 12, claim 15 depends from claim 14, claims 17-19 depend from claim 16, claims 21 and 22 depend from claim 20, claim 24 depends from claim 23, and claim 26 depends from claim 25, it is respectfully submitted that these defendant claims also patentably define over Bahlmann.

Claims 1-6, 9, 11, 13, 15, 16-19, 22, 24, and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bahlmann in view of ‘Official Notice.’ Applicants respectfully traverse this rejection. The Examiner has taken ‘Official Notice’ that the concepts and advantages of “a hybrid fiber co-axial network for transportation purposes,”¹ “providing for CATV signals in cable wires and governmental regulation of the telecommunications industry,”² and “providing for selective programming/services within the cable network”³ are well-known and expected in the art, but no references were cited to support these assertions.

¹ Office Action dated May 13, 2004, pp. 5-6.

² Id. at pp. 6-7.

³ Id. at pp. 7-8.

Applicants respectfully submit that Official Notice may only be taken in “certain circumstances,” when the notice of facts are “capable of such instant and unquestionable demonstration as to defy dispute.” MPEP § 2144.03(a) (citing In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970) (citations omitted)). Furthermore, when Official Notice is taken, “the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.” MPEP § 2144.03(B). In the present case, Applicants respectfully submit that the Examiner has not explicitly set forth reasoning to qualify as common knowledge. The Official Notice taken is not capable of such instant and unquestionable demonstration as to defy dispute. Accordingly, it is respectfully requested that references be cited in support of the assertions.

Additionally, Applicants respectfully submit that the Official Notice does not teach what is also lacking in Bahlmann, namely, providing multiple data service providers a high-speed network to expand their customer base. Therefore, no matter how Bahlmann is combined with the Official Notice taken, the combination fails to teach or suggest the presently claimed invention. Thus, it is respectfully submitted that independent claims 1, 7, 10, 12, 14, 16, 20, 23, and 25 are patentable over Bahlmann in view of the Official Notice taken in the outstanding Office Action. Because claims 2-6 depend from claim 1, claims 8 and 9 depend from claim 7, claim 11 depends from claim 10, claim 13 depends from claim 12, claim 15 depends from claim 14, claims 17-19 depend from claim 16, claims 21 and 22 depend from claim 20, claim 24 depends from claim 23, and claim 26 depends from claim 25, it is respectfully submitted that these defendant claims also are patentable over Bahlmann in view of the Official Notice taken.

Consequently, in view of the present amendment, and in light of the above comments, Applicants respectfully submit that the invention defined by claims 1-26 is patentably distinguished from the prior art. An early and favorable reconsideration of this application is therefore respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073
Thomas J. Fisher
Registration No. 44,681

Customer Number

22850

Tel: (703) 413-3000

Fax: (703) 413 -2220
(OSMMN 06/04)

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